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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/594,216	06/14/2000	Randall Wayne Frei	COM21-P002	7839
22877	7590	02/20/2004	EXAMINER	
FERNANDEZ & ASSOCIATES LLP 1047 EL CAMINO REAL SUITE 201 MENLO PARK, CA 94025			TRAN, PHUC H	
			ART UNIT	PAPER NUMBER
			2666	3

DATE MAILED: 02/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/594,216	FREI, RANDALL WAYNE	
	Examiner	Art Unit	
	PHUC H TRAN	2666	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 June 2000.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-29 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 13 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Regarding to claims 13 and 22, "the receiving device through layer-2" is opposite to the independent claims 12 and 21.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-9, 11-12, 14-19, & 23-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Britton et al. (U.S. Patent No. 6657974 B1).

- With respect to claims 1, 12, & 21, Britton teaches a system and method for enabling layer-3 communication within a sub-network for those members of the sub-network without layer-2 communication (e.g. the IP system not ATM), the system comprising:
 - a sending device, a receiving device, a forwarding agent, a first network device (Fig. 1) comprising a media access control address of a forwarding agent, the first network device interprets an address resolution protocol request from the sending device, and sends an address resolution protocol reply comprising the media access control address of the forwarding agent to the sending device (col. 1, lines 17-25).
- With respect to claims 2-3, 16, & 25, Britton discloses wherein the first network device comprises a proxy-proxy address resolution protocol function adapted to interpret the address resolution protocol request (col. 2, line 16)
- With respect to claim 4, Britton teaches wherein the receiving device comprises a network device comprising an Internet protocol address and a media access control address (col. 1, lines 14-35).
- With respect to claims 5, 15, & 24, Britton discloses wherein the receiving device comprises a computer (blocks WS in Fig. 1).
- With respect to claims 6, 8, 14, 18, 23 & 27, Britton teaches wherein the first network device comprises a network device adapted to communicate through a plurality of network communication layers including layer-3 (e.g. IP network).
- With respect to claims 7, 17, & 26, Britton discloses wherein the first network device comprises a switch (e.g. host in Fig. 1).
- With respect to claims 9, 19, & 28, Britton discloses wherein the forwarding agent

comprises a router (e.g. adapter in Fig. 1).

- With respect to claim 11, Britton discloses wherein the first network device comprises a processor for processing the data-packets (the host in Fig. 1), a memory for storing program data-structures associated with the processor, a plurality of storage structures interactive with the processor, and a proxy-proxy address resolution protocol function within the memory and interactive with the processor (claim 3).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10, 20, & 29 rejected under 35 U.S.C. 103(a) as being unpatentable over Britton et al. (U.S. Patent No. 6657974 B1) in view of Datta et al. (U.S. Patent No. 6295276 B1).

- With respect to claims 10, 20, & 29, Britton discloses all the aspect of the claimed invention as set forth above but fails to teach wherein the forwarding agent comprises a firewall. Datta teaches the firewall (col. 1, line 63) for protecting the network. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the firewall of Datta into Britton for protecting the network.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See form PTO-892.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H TRAN whose telephone number is (703) 308-7471. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAO SEEMA can be reached on (703) 308-5463. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuc Tran
Assistant Examiner
Art Unit 2664

P.t
2/10/2004


P. TRAN
FEB 10 2004
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